

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

LUANA M. MOODY,	§	No. 5:20–CV–374–DAE
	§	
Plaintiff,	§	
	§	
vs.	§	
	§	
IHOP,	§	
	§	
Defendant.	§	
_____	§	

ORDER ADOPTING REPORT AND RECOMMENDATION AND
DISMISSING CASE WITHOUT PREJUDICE

Before the Court is a Report and Recommendation (“R&R”) filed by Magistrate Judge Richard B. Farrer (“Judge Farrer”) on March 31, 2021. (Dkt. # 27.) This case was automatically referred to Judge Farrer for disposition of Plaintiff Luana M. Moody’s (“Plaintiff”) application to proceed *in forma pauperis* (“IFP”). Judge Farrer recommends the undersigned dismiss this case under 28 U.S.C. § 1915 for failure to state a claim upon which relief can be granted. (Id.)

Since March 31, 2021, the Court has mailed Plaintiff the R&R multiple times at multiple addresses. (Dkts. ## 27, 28, 29, 30, 31, 32.) She received the R&R most recently on April 19, 2021, at 5435 Silvertip, San Antonio, TX 78228. (Dkt. # 32.) Ordinarily, objections to an R&R are due within 14 days after receipt. Fed. R. Civ. P. 72. However, on April 30, 2021, Plaintiff filed a

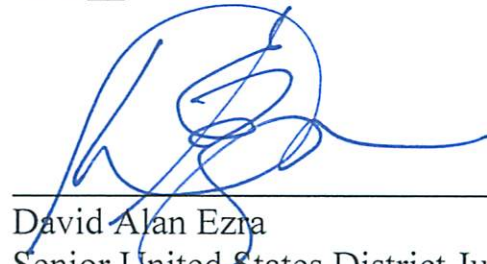
motion for an extension of time to file a response to the R&R (Dkt. # 33), which the Court granted via text order on May 5, 2021. The receipt for this text order indicates that the order was delivered by non-electronic means to “Luana M. Moody, 5435 Silvertip, San Antonio, TX 78228,” which is Plaintiff’s most recent address and the same place that she received the R&R on April 19, 2021. (Dkts. ## 26, 32.) The Court gave Plaintiff until June 4, 2021, to object to Judge Farrer’s R&R, but she did not file any objections.

Where, as here, no party objects to the Magistrate Judge’s findings, the Court reviews the R&R for clear error. United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir. 1989). After careful consideration, the undersigned adopts Judge Farrer’s R&R. (Dkt. # 27.) The undersigned agrees that Plaintiff has not asserted a claim upon which relief can be granted, despite the many opportunities and extensions the Court has afforded her to do so. Her discrimination claims lack specificity regarding protected activities and causation, and the factual allegations contained therein do not support a viable cause of action.

Accordingly, the undersigned **ADOPTS** the Magistrate Judge’s R&R (Dkt. # 27) as the opinion of the Court, and **DISMISSES** this case **WITHOUT PREJUDICE** under 28 U.S.C. § 1915(e)(2)(B)(ii). The Court **DIRECTS** the Clerk of the Court to **ENTER FINAL JUDGMENT** and **CLOSE** this matter.

IT IS SO ORDERED.

DATED: San Antonio, Texas, June 8, 2021.



David Alan Ezra
Senior United States District Judge